

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

LOWELL N. PAYNE, JR.,

Petitioner,

-v-

ROBIN KNAB, Warden

Respondent.

Case No. C-3:11-cv-189

**Judge Thomas M. Rose
Magistrate Judge Michael R. Merz**

**ENTRY AND ORDER OVERRULING PAYNE’S OBJECTIONS (Doc. #3)
TO THE MAGISTRATE JUDGE’S REPORT AND
RECOMMENDATIONS (Doc. #2); OVERRULING PAYNE’S
OBJECTIONS (Doc. #5) TO THE MAGISTRATE JUDGE’S
SUPPLEMENTAL REPORT AND RECOMMENDATIONS (Doc. #4);
ADOPTING THE MAGISTRATE JUDGE’S REPORT AND
RECOMMENDATIONS (Doc. #2) AND SUPPLEMENTAL REPORT AND
RECOMMENDATIONS (Doc. #4) IN THEIR ENTIRETY; DISMISSING
PAYNE’S PETITION WITHOUT PREJUDICE; DENYING LEAVE TO
APPEAL *IN FORMA PAUPERIS*; DENYING ANY REQUESTED
CERTIFICATE OF APPEALABILITY; AND TERMINATING THIS CASE**

This matter comes before the Court pursuant to pro se Petitioner Lowell N. Payne, Jr’s (“Payne’s”) Objections (doc. #3) to Magistrate Judge Michael R. Merz’s Report and Recommendations (doc. #2) and Payne’s Objections (doc. #5) to Magistrate Judge Merz’s Supplemental Report and Recommendations (doc. #4). The Petition in this matter has not yet been served. Payne’s Objections are, thus, ripe for decision.

Both Report and Recommendations reach the same conclusion: Payne has not demonstrated that this Court has jurisdiction over his Petition.

As required by 28 U.S.C. §636(b) and Federal Rules of Civil Procedure Rule 72(b), the District Judge has made a de novo review of the record in this case. Upon said review, the Court

finds that Payne's Objections to the Magistrate Judge's Report and Recommendations and his Objections to the Magistrate Judge's Supplemental Report and Recommendations are not well-taken, and they are hereby OVERRULED. The Magistrate Judge's Report and Recommendations and Supplemental Report and Recommendations are adopted in their entirety.

Payne's Petition is dismissed without prejudice because Payne has not shown that this Court has jurisdiction. Further, Payne is denied leave to appeal in forma pauperis and any requested certificate of appealability. Finally, The captioned cause is hereby ordered terminated upon the docket records of the United States District Court for the Southern District of Ohio, Western Division, at Dayton.

DONE and **ORDERED** in Dayton, Ohio, this Nineteenth Day of July, 2011.

s/Thomas M. Rose

THOMAS M. ROSE
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record
Lowell N. Payne, Jr. at his last address of record